IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6479 OF 2006

Shivsagar Singh .... Petitioner
Vs.
The State of Maharashtra & others .... Respondents

Mr. B.H. Vyas for the Petitioner.
Mr. M.H. Solkar, AGP for for Respondent nos. 1 & 4.

Mr. S.M. Dharap with Neel G. Helekar for respondent nos. 2 and 3.

CORAM : A.P. DESHPANDE, J.,
DATE : 7TH MARCH, 2007

P.C.

1) The Petitioner was appointed as Hindi Teacher in K.P.S. Memorial School, Andheri (W), Mumbai and on his termination, he preferred an appeal before the School Tribunal.

2) One of the issues raised by the Tribunal pertained to the eligibility of the Petitioner of being appointed as Hindi Teacher, the qualifications possessed by the Petitioner are B.A. HSS (Hindi Shikshan Sanad). The Tribunal has held that the Petitioner is not eligible to be appointed as Hindi Teacher and hence cannot claim any right

to the post in question. The qualification of Hindi Teacher (special teacher) is laid down in Schedule B-III(5) of Maharashtra Employees of Private School (Conditions of Service) Regulation Rules, 1981 which reads thus :

> "A person who possesses academic and training qualification in Hindi which is recognised as equivalent to the qualification mentioned in Clause (1) shall be held eligible for appointment as Hindi Teacher"

2) The learned counsel for the Petitioner is unable to point out that the qualification of Hindi Shikshan Sanad has been recognised as equivalent to the qualification mentioned in Clause I by the State Government. In the absence of an equivalence being granted to the qualification of Hindi Shikshan Sanad, it cannot be held that the Petitioner is eligible for being appointed as Hindi Teacher. If the petitioner does not possess eligibility for being appointed as Hindi Teacher, he cannot make a grievance about the termination being illegal.

3) The learned counsel appearing for the

Petitioner has placed reliance on the judgment of Division Bench of this Court reported in 1982 Maharashtra Law Journal, 403. The Division Bench has held that the provision of Section 4(6) is mandatory and not directory. The provision contained in Section 4(6) would apply to a person who has been validly appointed and who is eligible for being appointed. Assistance of Section 4(6) cannot be claimed by a person who is not eligible and qualified for being appointed.

4) Perused the order passed by the Tribunal. It does not suffer from any illegality warranting any interference. In the result, writ petition is summarily rejected.

(A.P. DESHPANDE, J.)